

## REMARKS

Entry of this Response is requested on the grounds that the claims patentably distinguish over the cited art of record or, alternatively, place the application in better condition for appeal. The claims particularly point out and distinctly claim the subject matter which Applicants regard as the invention. The claims are believed to avoid the rejections applied in the Final Office Action for reasons set forth more fully below.

The Final Office Action of August 3, 2009 has been received and carefully reviewed. It is submitted that, by this Response, all bases of rejection are traversed and overcome. Upon entry of this Response, claims 1, 7-14, 16-18, 20, and 21 remain in the application, with claims 11-14, 16, and 17 being withdrawn. Reconsideration of the claims is respectfully requested.

Claims 1, 7, 18, 20, and 21 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Groll (U.S. Patent Publication No. 2005/0019953) in view of Burke, et al. (U.S. Patent Publication No. 2008/0098802) and Ward (U.S. Patent No. 5,410,504). The Examiner asserts that the combination of Groll, Burke, and Ward discloses all of the elements of independent claims 1, 18, and 21. The Examiner further asserts that the test strip of Groll includes contact pads that are capable of producing  $2^N$  number of calibration values (citing paragraph [0078] of Groll). For the reasoning indicated below, Applicants respectfully disagree with the Examiner's assertions.

Paragraph [0078] of Groll discloses the contact pad *positions* (identified by B1-B7 in Fig. 10 of Groll) may be coded as "0" or "1" in any possible seven digit digital word that may be **encoded on the test strip**. Thus, there are  $2^7$  or 128 possible unique words that can be encoded onto the test strip using the contact pad positions B1-B7. Examples of words (or information) that may be encoded on the test strip are set forth in paragraphs [0071] – [0074] of Groll, where such information includes information indicating in which market the test strips were sold, a business model, instructions for activating latent features of a test meter, etc. Applicants submit that encoding the test strip with such information (as disclosed in Groll) is clearly **not** the same as producing

(via N number of impedance elements)  $2^N$  number of different calibration values (as similarly recited in independent claims 1, 18, and 21).

Applicants further submit that neither Burke nor Ward supplies the deficiency of the Groll reference as set forth above. Particularly with reference to Ward, Applicants submit that the reference does *not* disclose that the plurality of capacitors of the memory device produces characteristic impedance indicative of a calibration value of a chemical reagent, or that an N number of capacitors produce  $2^N$  number of different possible calibration values.

For the reasoning stated above, Applicants submit that the combination of Groll, Burke, and Ward *fails* to disclose all of the elements of independent claims 1, 18, and 21. As such, it is submitted that Applicants' invention as defined in independent claims 1, 18, and 21, as well as in those claims depending therefrom, is not anticipated, taught or rendered obvious by Groll, Burke, and Ward, either alone or in combination, and patentably defines over the art of record.

Claims 8-10 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Groll in view of Burke and Ward, and further in view of Mandecki (U.S. Patent Publication No. 2002/0006673). For the reasoning provided above, it is submitted that the combination of Groll, Burke, and Ward fails to disclose all of the elements of independent claim 1, from which claims 8-10 ultimately depend. It is further submitted that Mandecki fails to supply the deficiencies of Groll, Burke, and Ward. Since the combination of Groll, Burke, Ward, and Mandecki does not disclose all of the elements of independent claim 1, Applicants submit that claims 8-10 are patentable at least because of their dependency from claim 1. As such, it is submitted that Applicants' invention as defined in independent claims 8-10 is not anticipated, taught or rendered obvious by Groll, Burke, Ward, and Mandecki, either alone or in combination, and patentably defines over the art of record.

It is submitted that the absence of a reply to a specific rejection, issue or comment in the instant Office Action does not signify agreement with or concession of that rejection, issue or comment. Finally, nothing in this Response should be construed

as an intent to concede any issue with regard to any claim, except as specifically stated in this Response, and the amendment of any claim does not signify concession of unpatentability of the claim prior to its amendment.

In summary, claims 1, 7-14, 16-18, 20, and 21 remain in the application. It is submitted that, through this Amendment, Applicants' invention as set forth in these claims is now in a condition suitable for allowance. Should the Examiner believe otherwise, it is submitted that the claims as amended qualify for entry as placing the application in better form for appeal.

Further and favorable consideration is requested. If the Examiner believes it would expedite prosecution of the above-identified application, the Examiner is cordially invited to contact Applicants' Attorney at the below-listed telephone number.

Respectfully submitted,

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